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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: EAC 01 074 52359 Office: Vermont Service Center

Date: JUN 18 2002

IN RE: Petitioner:
Beneficiary:

Petition: Immigrant Petition for Alien Worker as an Outstanding Professor or Researcher pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(B)

IN BEHALF OF PETITIONER:

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(B), as an outstanding professor or researcher. The director determined that the petitioner had not established that he qualifies for classification as an outstanding professor or researcher. Specifically, the director noted that the petitioner had not established a qualifying job offer by a valid U.S. employer.

The Service regulation at 8 C.F.R. 204.5(i)(1) states that any United States employer desiring and intending to employ a professor or researcher who is outstanding in an academic field under section 203(b)(1)(B) of the Act may file an I-140 visa petition for such classification.

The Service regulation at 8 C.F.R. 204.5(i)(3) states that a petition for an outstanding professor or researcher must be accompanied by:

(iii) An offer of employment from a prospective United States employer. A labor certification is not required for this classification. The offer of employment shall be in the form of a letter from:

(A) A United States university or institution of higher learning offering the alien a tenured or tenure-track teaching position in the alien's academic field;

(B) A United States university or institution of higher learning offering the alien a permanent research position in the alien's academic field; or

(C) A department, division, or institute of a private employer offering the alien a permanent research position in the alien's academic field. The department, division, or institute must demonstrate that it employs at least three persons full-time in research positions, and that it has achieved documented accomplishments in an academic field.

The record reflects that the alien filed the I-140 petition with the Vermont Service Center on January 4, 2001, listing himself as the petitioner under Part 1 of the form. The Service regulation at 8 C.F.R. 103.2(a)(2) states: "An applicant or petitioner must sign his or her application or petition." Under Part 8 of the I-140, the alien executed his signature. As the I-140 petition was signed by the alien, it constitutes a self-petition. The above regulations contain no provision for an alien to self-petition; the petition itself must be filed by the prospective U.S. employer. Because the alien filed the petition on his own behalf, the petition was not properly filed, and this flaw cannot be remedied by the submission of additional evidence on appeal.

In this matter, the alien has no standing to self-petition for the classification sought. Therefore, the petition cannot be approved, and further discussion of the merits of the petition would serve no practical purpose.

ORDER: The appeal is dismissed.